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SENATE

REPORT
99-262

FINANCIAL ASSISTANCE FOR THE NORTHERN MARIANA ISLANDS

MARCH 8, 1986.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S.J. Res. 192]

The Committee on Energy and Natural Resources to which was referred the joint resolution (S.J. Res. 192) to authorize financial assistance for the Northern Mariana Islands, and for other purposes, having considered the same, reports favorably thereon with amendments to the text and an amendment to the title, and recommends that the joint resolution, as amended do pass.

The amendments are as follows:

1. On page 1, line 3, strike "section 2 of Public Law 94-241" and insert in lieu thereof "the Covenent to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America approved by Public Law 94-241 (90 Stat. 263)".

2. On page 1, line 7, strike "subsections (a), (b) and (d)," and insert in lieu thereof "subsection (a),".

3. On page 2, lines 8 and 9 strike ", as well as authorization for the appropriation,".

4. On page 3, strike lines 1 through 6, and insert in lieu thereof the following in paragraph:

> (5) in section 1003, subsection (b), delete "Article VII, Sections" and insert in lieu thereof "701-704,"; redesignate subsection (c) as subsection (d); and add a new subsection (c) as follows:
>
> "(c) Section 705 will become effective as of October 1, 1985.".

5. On page 3, after line 6, insert the following new sections:

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S313-5

SEC. 2. Public Law 96-193 is amended by adding the following new section at the end of title III:

"SEC. 306. (a) The Secretary shall provide an exemption from applicable noise standards to permit the operation of any noncomplying aircraft if the operator is flying such aircraft between Honolulu or other nations and points in the United States Pacific territories or the Trust Territory of the Pacific Islands (or successor political entities). No such noncomplying aircraft shall be allowed to operate at any other United States airports.

"(b) Nighttime noise restrictions for aircraft operating pursuant to subsection (a) of this section shall be inapplicable in Honolulu, the United States Pacific territories and the Trust Territory of the Pacific Islands, (or successor political entities), provided that the State of Hawaii institutes nighttime noise restrictions for Honolulu International Airport, with equal application to all operators, that are no more restrictive than the existing restrictions.".

SEC. 3. (a) In awarding assistant grants, consolidated under the provisions of title V of the Act entitled "An act to authorize certain appropriations for the territories of the United States, to amend certain acts related thereto, and for other purposes." (91 Stat. 1159, as amended), to the Trust Territory of the Pacific Islands, American Samoa, Guam, the Nothern Mariana Islands or the Virgin Islands, the Administrator of the Environmental Protection Agency may, in his discretion, adjust or otherwise modify maintenance or level of effort requirements.

(b) In awarding grants to the Trust Territory of the Pacific Islands, American Samoa, Guam, the Northern Mariana Islands and the Virgin Islands under section 201(g)(1) of the Clean Water Act (33 U.S.C. Sec. 1251 *et seq.*), the Administrator of the Environmental Protection Agency may waive limitations regarding grant eligibility for sewerage facilities and related appurtenances, insofar as such limitations relate to collector sewers, based upon a determination that applying such limitations could hinder the alleviation of threats to public health and water quality. In making such a determination, the Administrator shall take into consideration the public health and water quality benefits to be derived and the availability of alternate funding sources. The Administrator shall not award grants under this section for the operation and maintenance of sewerage facilities, for construction of facilities which are not an essential component of the sewerage facilities, or for any other activities of facilities which are not concerned with the management of wastewater to alleviate threats to public health and water quality.

SEC. 4. Section 29 of the Organic Act of Guam (64 Stat. 392) is amended by adding the following new subsection (c):

"(c) the Government of Guam may establish an Office of Public Prosecutor and an Office of Public Auditor.".

SEC. 5. Section 101(a)(15)(D) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(D)) is amended by insert-

ing "(i)" after "(D)" and by adding at the end the following new clause:

"(ii) an alien crewman serving in good faith as such in any capacity required for normal operations and service aboard a fishing vessel having its home port or an operating base in the United States who intends to land temporarily in Guam and solely in pursuit of his calling as a crewman and depart from Guam with the vessel on which he arrived;".

SEC. 6. Subsection 212(l) of the Immigration and Nationality Act (8 U.S.C. 1182) is amended as follows:

"(l)(1) The requirement of paragraph (26)(B) of subsection (a) of this section may be waived by the Attorney General, the Secretary of State, and the Secretary of the Interior, acting jointly, in the case of an alien applying for admission as a nonimmigrant visitor for business or pleasure and soley for entry into and stay in Guam for a period not to exceed fifteen days, if the Attorney General, the Secretary of State, and the Secretary of the Interior, after consultation with the Governor of Guam jointly determined that—

"(A) an adequate arrival and departure control system has been developed on Guam, and that

"(B) such a waiver does not represent a threat to the welfare, safety, or security of the United States, taking into account the conditions prevailing on, and the location of, Guam.

"(2) An alien may not be provided a waiver under this subsection unless the alien has waived any right—

"(A) to review or appeal under this Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into Guam, or

"(B) to contest, other than on the basis of an application for asylum, any action for deportation against the alien.

"(3) Any personnel employed by the Immigration and Naturalization Service in order to implement the provisions of this subsection shall not be counted for the purposes of personnel ceilings or other limitations on the number of employees in either the Immigration and Naturalization Service or the Department of Justice.

"(4) Assignments of employees of the Territory of Guam to the Immigration and Naturalization Service under section 3374 of title 5, United States Code, shall not be subject to the time limitation provided for in section 3372(a) of title 5, United States Code.

"(5) The Attorney General is authorized to accept from the Territory of Guam reimbursement for the increased cost of administering the Immigration and Nationality Act resulting from this subsection.

"(6) The Attorney General, after consultation with the Secretary of State, the Secretary of the Interior, and the Governor of Guam, shall issue regulations governing the admission of nonimmigration aliens pursuant to the visa waiver authorized by this subsection.".

6. Amend the title so as to read:

Joint resolution to modify financial assistance for the Northern Mariana Islands, and for other purposes.

PURPOSE

The purpose of S.J. Res. 192, as reported, is to implement the agreement of the Special Representatives on the Future United States Financial Assistance for the Northern Mariana Islands which modifies the conditions for financial assistance to the islands under Article VII of the Covenant to establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America.

In addition, the purpose of S.J. Res. 192 is to enact the following five provisions regarding the U.S Territories:

1. Exempt the Pacific territories from aviation noise regulations.
2. Provide the Administrator of the Environmental Protection Agency with the discretion to modify certain Clean Water Act grant requirements.
3. Authorize the Government of Guam to establish independent offices for a Prosecutor and an Auditor.
4. Amend the Immigration and Nationality Act to correct an inconsistency regarding alien crewmen on U.S.-registered fishing vessels.
5. Amend the Immigration and Nationality Act to further provide for a limited visa waiver in Guam.

BACKGROUND AND NEED

In 1976, Congress approved a Covenant to Establish a Commonwealth of the Northern Mariana Islands (CNMI) in Political Union with the United States (Public Law 94–241). Article VII of this Covenant pledges the full faith and credit of the United States to seven years of financial support to the CNMI for its operations and economic development. This assistance began at $14 million in 1978 and has been indexed to inflation. A total of $191 million was granted for use in three areas: $113 million for government operations, $55 million for Capital Improvement Projects, and $23 million for Economic Development Loans.

Section 902 of the Covenant requires that special representatives of the United States and CNMI meet at least 1 year prior to the expiration of the period of financial assistance to consider and make recommendations regarding future multiyear financial assistance. Section 704(d) of the Covenant provides that the level of payments will continue until Congress appropriates a different amount or "otherwise provides by law." Having met, on July 10, 1985, the Special Representatives on Future United States Financial Assistance for the CNMI reached an agreement on funding for the next seven year period (See: Executive Communications).

Upon enactment of S.J. Res. 192, this agreement will provide the framework for the U.S. financial assistance to the CNMI for the second 7-year period, fiscal years 1986 through 1992. It would provide $228 million over the next 7-years for three general activities; $100.5 million for Government operations; $126 million for capital

development, and $1.5 million for special programs. Based on the inflation estimates of the Office of Management and Budget, this would be a reduction of $6 million over the level of funding which would be provided absent the new agreement. In many respects, this agreement has been altered to improve the effectiveness of the funds and to provide for greater Federal government oversight and enforcement. For example, the agreement:

No longer provides for inflation adjustment of the grants which grew from $14 to $28.7 million over the first 7-year period. Instead it provides a set schedule of payments.

Requires that the CNMI develop a 7-year strategic plan for the expenditure of the capital development funds. At least eighty percent of the funds would be for capital projects and, at most, 20 percent for economic development.

Provides for biennial meetings with the Department of Interior and an annual report to Congress.

The agreement by the United States for Government operations funds would be subject to the CNMI meeting certain performance standards such as: a $1 million per year reduction in Federal assistance for operations, meeting utility costs without government subsidies within 3 years, and re-establishing a sound Government pension system.

With respect to Part III, paragraph 2 of the agreement, the Committee affirms the authority of Congress to determine whether violations of the performance standards of the agreement have occurred. The Committee intends that the Secretary of the Interior will notify the Appropriations Committee promptly in writing if the Secretary believes such violations have occurred and requesting authority to defer operations funds as provided for in the agreement. To the extent that the Appropriations Committee agrees that a performance standard of the agreement has been violated, and forms a basis for a deferral, the Committee will specifically authorize such a deferral in appropriations language. It is this Committee's position that the Secretary shall not propose deferral of and may not defer operations funds pursuant to the agreement except when such a deferral has been specifically provided for in advance in appropriations legislation.

Part III, paragraph 2, of the agreement also provides for the deferral of operations funds if there is a violation of "understandings". At its December 3, 1985, hearing on S.J. Res. 192 the Committee requested that the Administration specifically define these understandings and their legal status. The Administration responded that there were two such understandings; 1, a reduction of the CNMI legislature's budget from $4.4 million to $2.8 million and, 2, a continuing decrease in the overall size of the CNMI Government. However, the Administration also responded that, ". . . with respect to the legal status of these understandings, the deferral process would be reserved for enforcement of performance standards only." Based on this statement, the Committee concludes that a violation of these understandings would not form the basis for a deferral of operations funds pursuant to the agreement.

The Committee expects that the reports to Congress by the Government of the Northern Mariana Islands, required under Part III, paragraph 1, of the agreement, shall be made to the Appropria-

tions Subcommittees and to this Committee and the appropriate Committees of the House of Representatives.

Legislative History

S.J. Res. 192 was introduced on September 9, 1985, by Senator McClure at the request of the Administration. On December 3, 1985, a hearing was held before the full Committee on Energy and Natural Resources. On February 26, 1986, the Committee ordered the measure reported with amendments.

Committee Recommendation and Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session of February 26, 1986, by unanimous vote of a quorum present, recommended that the Senate pass S.J. Res. 192, if amended, as described herein.

YEAS	NAYS
Mr. McClure	
Mr. Hatfield [1]	
Mr. Weicker [1]	
Mr. Domenici	
Mr. Wallop [1]	
Mr. Warner	
Mr. Murkowski	
Mr. Nickles	
Mr. Hecht	
Mr. Evans	
Mr. Johnston	
Mr. Bumpers [1]	
Mr. Ford	
Mr. Metzenbaum [1]	
Mr. Melcher	
Mr. Bradley	
Mr. Bingaman [1]	
Mr. Rockefeller	

[1] Indicates voted by proxy.

Committee Amendments

The Committee ordered S.J. Res. 192 reported with six amendments; the first four are technical in nature, the fifth would add five sections to the bill and the sixth would alter the title.

The title would be changed to reflect that this resolution does not enact a new authorization but only modifies the conditions for appropriation under an existing authorization. Section 702 of the Covenant states that, "Approval of this Covenant by the United States will constitute a commitment and pledge of the full faith and credit of the United States for the payment, as well as an authorization for the appropriation, of the following guaranteed annual levels of direct grant assistance to the Government of the Northern Mariana Islands for each of the seven fiscal years following the effective date of this Section:" Section 704(d) of the Covenant further states; "Upon expiration of the 7 year period of guaranteed annual direct grant assistance provided by section 702, the

annual level of payments in each category listed in section 702 will continue until Congress appropriates a different amount or otherwise provides by law." Section 704(d) of the Covenant continues the authorization and the pledge of full faith and credit for payments under the Covenant beyond the 7 year period by stating that such playments "will continue". The Solicitor's Office of the Department of the Interior has concluded that: "the CNMI will continue to receive grant funds in the eighth year, etc., on the same basis that it received funds in the initial 7 year period." S.J. Res. 192, and the referenced agreement, provide "different amount(s)" as anticipated. The new agreement will provide less funding than the existing agreement would, if it were to be continued, because the new agreement does not automatically adjust the payments for inflation. The resolution would reduce payments under an existing entitlement. It is not a new authorization or entitlement.

The fifth amendment would add to the resolution the five new sections described below.

Section 2 would amend title III of Public Law 96–193 to provide an exemption from aircraft noise standards for aircraft flying between Honolulu, Hawaii, or other nations, and the United States Pacific territories or the Trust Territory of the Pacific Islands (or successor political entities). The section would further provide that the State of Hawaii shall be authorized to institute nighttime noise restrictions for Honolulu airport which would be no more restrictive than those which currently apply. The intent of this provision is to increase air service in these insular areas where it is essential for economic and social development. The current restrictions were developed in response to a noise problem which is minimal in the territories because aircraft operate over water. In addition, the region's two largest airports, in Guam and Honolulu, are also used by military aircraft which do not need to meet the noise restrictions. The high cost of compliance with the noise restrictions has resulted in more harm than benefit to these islands. The cost, generally over $2 million per aircraft, has discouraged operators from serving these markets or it has forced them to cease operations altogether. Although the exemption in Honolulu is more limited, to daytime flights, it is necessary to include Honolulu in order to assure that there is an opportunity for mail, freight and passenger service to the United States to develop adequately.

In adopting this provision and creating an exemption to the Aviation Safety and Noise Abatement Act of 1979, the Committee considered the unique circumstances and transportation problems which exist in the Pacific territories. The Committee is not, in any manner, suggesting or supporting that such an exemption should be broadened in any way or extended to any other geographical region.

Section 3 would provide flexibility to the Administrator of the Environmental Protection Agency (EPA) to modify certain water quality grant requirements and limitations which he may determine are not appropriate to conditions in the territories. For example, water and power service, on which water treatment facilities depend, are generally less developed and reliable in the territories than in mainland areas. As a result, the territories have lagged behind mainland areas in meeting eligibility requirements and in

taking advantage of water quality grants. Because these grants are now being phased-out, the territories may lose the opportunity to take full advantage of the grants despite a significant threat to pubic health and water quality. It is intended that the Administrator of the EPA will use the flexibility granted by this provision to waive requirements, including time limitations on grants, to alleviate threats to the public health and quality, and to encourage the development of water treatment facilities. The provision would allow Federal funds to be used for the construction of sewage collection systems to receive sewage from household connections and transport it to interceptor or trunk sewers, provided the required findings related to threats to public health are made. The Clean Water Act does not permit use of Federal funds for the installation of house connector lines to sewage collection systems.

Section 4 would add a new paragraph (c) to section 29 of the Organic Act of Guam, authorizing the Government of Guam to establish independent offices for Prosecutor and Auditor. The Committee intends that the Government of Guam, not the U.S. Congress, shall determine how to allocate the authority to establish and organize each of these two separate offices. This provision does not preclude delegation of this authority to the Governor under local law nor does it require that there be any changes to the current organization of these offices.

Section 5 would amend the Immigration and Nationality Act to correct an inconsistency in the immigration law which allows alien crewmen on foreign vessels to enter Guam for shore leave while denying the same alien crewmen entry to Guam if they work on U.S.-registered vessels. This discriminatory treatment favoring foreign vessels has resulted in severe morale problems on U.S. vessels and, in one case, led to violence when immigration officers attempted to enforce the law. The Immigration and Naturalization Service has temporarily relieved the problem by paroling these crewmen into Guam pending passage of legislation to correct the inconsistency. This new section would provide a final solution to this problem.

Section 6 would amend subsection 212(1) of the Immigration and Nationality Act which was added by Congress in 1984 (Public Law 98-454) to provide for a limited 15-day visa waiver for visitors to Guam. However, the Justice Department identified several unanticipated problems during the planning to implement the waiver. For example, there was a concern that aliens who overstayed the 15-day limit could claim costly review and appeal procedures to contest their deportation. Second, there were concerns for providing the necessary staffing and funding to implement the waiver. Finally, there was concern that the Governor of Guam, Secretary of State and Secretary of the Interior should have consultative roles in the development of the necessary regulations.

The amendment, drafted by the Department of Justice, would resolve the first problem by requiring aliens to waive their rights to appeal or contest deportation under this waiver. The staffing problem would be resolved by not counting the necessary Department of Justice personnel against the Department's personnel ceiling and by waiving the time limitation on the assignment of Government of Guam employees to the Immigration and Naturalization Service. Further, funding reimbursement by the Government to

the Attorney General would be authorized, but not mandated by this provision. Finally, the amendment explicitly provides for consultation with the Secretary of State, the Secretary of the Interior, and the Governor of Guam by the Attorney General prior to the issuing of the necessary regulations.

Cost and Budgetary Considerations

In compliance with paragraph 11(a) of Rule XXVI of the Standing Rules of the Senate, the following estimate of the cost of this measure has been provided by the Congressional Budget Office:

> The Committee concurs in the conclusion of the Congressional Budget Office that "this resolution would not result in additional federal outlays" but disagrees that the resolution "change the grant payments from a discretionary appropriation to an appropriated entitlement".
>
> The resolution limits an existing entitlement. Section 704(d) of the Covenant specifically states that upon the expiration of the initial seven year period, "the annual level of payments . . . will continue until Congress appropriates a different amount or otherwise provides by law." The Committee Report on the Covenant stated explicitly that: "Subsection (d) requires that Congress must take positive action if it wishes either to alter the amount of assistance set by section 702 (as adjusted by section 704(c) or to eliminate assistance altogether, even after the seven-year period ends. It eliminates the risk that direct financial assistance to the Northern Mariana Islands would be halted inadvertently." (S. Rept. 94–433, p. 86)
>
> This interpretation was concurred in by the Solicitor's Office of the Department of the Interior which subsequent to the enactment of the Covenant concluded: "the CNMI will continue to receive grant funds in the eighth year, etc., on the same basis that it received funds in the initial seven year period." The Committee strongly disagrees with the attempt through budget analysis to amend clear and unambiguous statutory language.

U.S. Congress,
Congressional Budget Office,
Washington, DC, March 12, 1986.

Hon. James A. McClure,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed S.J. Res. 192, a joint resolution to modify financial assistance for the Northern Mariana Islands, and for other purposes, as ordered reported by the Senate Committee on Energy and Natural Resources, February 26, 1986.

Enactment of this resolution would reaffirm the commitment of the United States for the payment of grants to the Northern Mariana Islands over the 1986–1992 period. Under current law, the Congress is authorized, but not required, to appropriate any amount for grant assistance to the Northern Mariana Islands. This resolu-

tion would require the Congress to appropriate $228 million over seven years, as specified in an agreement signed by the Government of the Northern Mariana Islands and the United States.

We estimate that this resolution would not result in additional federal outlays, because the Congress may appropriate the annual grant amounts in the agreement under the existing authorization. The Congress has already appropriated the first-year payment for fiscal year 1986. The full faith and credit pledge provided by this resolution, however, would change the grant payments from a discretionary appropriation to an appropriated entitlement.

The following table displays the required annual grant amounts and the estimated outlays, which would appear in budget function 800:

[In millions of dollars]

	Fiscal year				
	1987	1988	1989	1990	1991
Required budget authority	35	34	40	34	29
Estimated outlays	30	33	39	35	25

Other provisions of the resolution would not result in additional costs to the federal government.

Enactment of this resolution would not affect the budgets of state or local governments.

If you wish any further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

JAMES BLUM
(For Rudolph G. Penner, Director).

REGULATORY IMPACT EVALUATION

The resolution would not impose any additional Government-established standards or significant economic responsibilities on private individuals or businesses.

No personal information would be collected as a result of enactment of this measure. Therefore, there would be no impact on personal privacy.

Although the measure does require that a report be made to Congress. Little, if any additional paperwork would result from the enactment of S.J. Res. 192.

EXECUTIVE COMMUNICATIONS

The pertinent legislative reports and communications received by the Committee from the Department of the Interior setting forth Executive agency recommendations relating to S.J. Res. 192 are set forth below. The Committee requested views of the Department on proposed amendments to the measure at the December 3, 1985 hearing. However, no response had been received as of March 10, 1986.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, July 29, 1985.

Hon. GEORGE BUSH,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Enclosed are the *Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands,* and draft joint resolution "To authorize financial assistance for the Northern Mariana Islands."

We recommend that the joint resolution be referred to the appropriate committee for consideration, and that it be enacted.

Section 902 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, approved by the Congress in Public Law 94-241, provides that the President, and Governor of the Northern Mariana Islands shall appoint special representatives for the Northern Mariana Islands. President Ronald W. Reagan and Governor Pedro P. Tenorio, respectively, appointed the special representatives. On July 10, 1985, in Saipan, Northern Mariana Islands, the special representatives signed the *Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands,* (hereinafter referred to as "agreement").

At such time as the recommended legislation is enacted by the Congress, the agreement will provide the framework for United States financial assistance for the Northern Mariana Islands for a second seven-year period, fiscal years 1986 through 1992. The United States full faith and credit guarantee would continue to be applicable under the agreement to the negotiated $228 million in United States funding over the seven-year period. This funding includes $126 million for captial development, $100.5 million for government operations, and $1.5 million for hospital start-up costs and pension planning. The government operations portion of the funds is conditioned on the Northern Mariana Islands meeting a series of performance standards.

The agreement in other respects, however, is a departure from past practice. The first seven-year period saw funding, indexed to 1975 prices, with no strings attached for operations, the economic development loan fund, or construction.

The new agreement provides a schedule of annual financing based on the principles of:

"Priority for capital and economic development (with augmenting private bonding) over government operations,

"Reduction in government operations by at least $1 million a year,

"Continuation of Northern Mariana Islands' independent and autonomous regulatory authorities governing utilities, borrowing and economic development, which will put utilities on a full user-fee/pay-as-you-go basis within three years,

"Planning for full funding of the government's pension system by the end of the agreement's seven-year period, and

"Privatization."

The agreement includes standards to ensure performance under the above principles in addition to calling for Federal technical as-

sistance, biennial meetings to assess progress under the agreement, and annual reports to the Congress. Should performance be found lacking the Secretary of the Interior would be authorized to propose deferral of the Northern Mariana Islands government operations funds.

Also understood by the special representatives are the facts that indexing would no longer be applicable to Northern Mariana Islands funds, and that legislature expenses would be reduced according to public law enacted by the Northern Mariana Islands legislature.

The agreement does not change the amount requested for fiscal year 1986 for the Northern Mariana Islands by the Department of the Interior—$27,726,000. Appropriations language in current appropriations bills, therefore, is not affected by the agreement. Enactment of the attached joint resolution, however, is vital for fulfillment of the agreement and its requirements. With agreement emphasis on capital development, and reduced and efficient government administration, we strongly urge early action by the Congress.

The Office of Management and Budget has advised that enactment of this draft joint resolution would be in accord with the program of the President.

Sincerely,

RICHARD MONTOYA,
Assistant Secretary.

Enclosures.

AGREEMENT OF THE SPECIAL REPRESENTATIVES ON FUTURE UNITED STATES FINANCIAL ASSISTANCE FOR THE NORTHERN MARIANA ISLANDS

Whereas, under the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Covenant) the peoples of the Northern Mariana Islands and the United States of America desire to improve their mutually beneficial relationship, and to develop the economic resources referenced in Section 701 needed to meet the financial responsibilities of local self-government in the Northern Mariana Islands; and

Whereas, the guaranteed annual levels of direct grant assistance will expire at the end of fiscal year 1985; and

Whereas, Section 704(d) of the Covenant provides that the Congress may appropriate different amounts at the end of the seven-year period of guaranteed annual direct grant assistance provided by Section 702 of the Covenant; and

Whereas, the Covenant provides for the appointment of special representatives of the two governments to consider and make recommendations regarding future multi-year financial assistance to the Government of the Northern Mariana Islands; and

Whereas, President Ronald Reagan and Governor Pedro P. Tenorio appointed such special representatives who have considered such United States future financial assistance;

Now, therefore, we, Richard T. Montoya, special representative for the President of the United States, and Pedro A. Tenorio, Benjamin T. Manglona, Gregorio C. Sablan, and Ignacio K. Quichocho, special representatives of the Governor of the Northern Mariana Islands, agree as follows:

PART I. POLICY STATEMENT

The Government of the United States and the Government of the Northern Mariana Islands mutually agree that the people of the Northern Mariana Islands will be best served by promoting economic development, lessening dependence on Federal financial assistance for government operations, and reducing the size of government, including the executive and legislative branches. Priority shall be given to maximizing capital development through the use of public and private financing techniques. The Government of the United States recognizes recent significant efforts and the future commitment on the part of the Government of the Northern Mariana Islands to achieve these objectives.

This document affirms the mutual commitment of the Government of the United States and the Government of the Northern Mariana Islands to these goals.

PART II. FUNDING

1. Full Faith and Credit. After approval of this Agreement by the Congress and the President of the United States, payments under this second multi-year financial assistance agreement shall be accorded the full faith and credit of the United States, except that the full faith and credit for the payment of government operations funds shall be subject to the performance standards (paragraph 4 of this Part) and settlement of disputes provisions (paragraph 2 of Part III) contained in this agreement.

2. Schedule of Payments. The Government of the United States shall provide the Government of the Northern Mariana Islands $228 million over a seven-year period, beginning October 1, 1985, and ending September 30, 1992, to be appropriated according to the following schedule:

Fiscal year	Capital development	Government operations	Special programs	Total
1986	$8,466,000	$17,760,000	$1,500,000	$27,726,000
1987	18,294,000	17,050,000	.....	35,344,000
1988	18,000,000	16,360,000	.....	34,360,000
1989	25,150,000	15,000,000	.....	40,150,000
1990	20,850,000	13,000,000	.....	33,850,000
1991	17,850,000	11,000,000	.....	28,850,000
1992	17,390,000	10,330,000	.....	27,720,000
Totals	126,000,000	100,500,000	1,500,000	228,000,000

When appropriated, funds shall be granted annually by the Department of the Interior according to such regulations as are applicable to such grants. All previous funds granted under Section 702 of the Covenant remain subject to the provisions and restrictions under which they were granted.

3. Capital Development.

(a) The Government of the Northern Mariana Islands shall develop a seven-year strategic plan for capital improvement projects and economic development activities. At a minimum, eighty percent of the annual capital development funds identified in the schedule of payments (paragraph 2 of this Part) shall be obligated and expended in accordance with such plan that shall provide for essential infrastructure through capital improvement projects in the areas of power, water, sewers, roads, schools, ports and harbors, and public facilities. The balance, not to exceed a maximum of twenty percent of such annual capital development funds, shall be obligated and expended in accordance with the provisions of such plan that shall provide for economic development activities. Such plan and amendments thereto shall be submitted in accordance with Northern Mariana Islands law and mutually agreed upon by the Government of the Northern Mariana Islands and the Secretary of the Interior, or his designee. The plan shall be project specific with sufficient detail to perform cost/benefit analyses and develop financing strategies and alternatives. The Government of the Northern Mariana Islands shall establish a revolving fund, into which repayments of principal and inter-

est from revenue-producing projects shall be deposited for financing of additional revenue-producing capital development projects. Interest earned on capital development funds before such funds are expended shall be treated as capital development funds; interest earned on moneys in the revolving fund shall become part of the revolving fund.

(b) The payment of federally appropriated funds, backed by the full faith and credit of the United States, may be applied or directed by the Government of the Northern Mariana Islands (but such an application or direction by the Government of the Northern Mariana Islands shall not be a guarantee of payment by the United States, either directly or indirectly) for the repayment of debt instruments issued by the Government of the Northern Mariana Islands for capital development funds.

(c) The islands of Rota and Tinian shall each receive no less than a ⅛ share and the island of Saipan shall receive no less than ⅜ share of annualized capital improvement project funds which shall be no less than 80% of the capital development funds identified in the Schedule of Payments in paragraph 2 of this Part.

4. Government Operations. The full faith and credit of the United States for the payment of government operations funds shall be subject to fulfillment of the following performance standards during the entire seven-year period:

(a) The Government of the United States shall provide $100.5 million in operations funds over the seven-year period in the annual amounts set forth in the schedule of payments. These annual funds shall be provided according to a separate payment schedule developed by the Government of the Northern Mariana Islands consistent with Federal regulations.

(b) The Government of the United States, through its designee, subject to the availability of funds, and at the request of and in cooperation with the Government of the Northern Mariana Islands, shall provide technical assistance, including but not limited to the following purposes; (i) the development and operation of a financial management system, (ii) the development of a plan for the transfer to the private sector by the Government of the Northern Mariana Islands of those functions that can be privately owned and operated, (iii) the promotion of government efficiency, (iv) the improvement of Northern Mariana Islands business development capability, (v) the promotion of business development and marketing by the Government of the Northern Mariana Islands, and (vi) assistance in bonding and financing techniques to be used in capital development.

(c) Representatives of both governments shall meet at least biennially to evaluate and discuss progress and achievements made under this agreement.

(d) The Government of the Northern Mariana Islands shall demonstrate a decreasing reliance on Federal Covenant financial assistance for government operations by reducing such assistance by an average of $1 million a year during the seven-year period of this agreement, and by reducing the overall size

of government. Capital development funds shall not be spent for government operations purposes.

(e) The Government of the Northern Mariana Islands shall ensure continuation of an independent public agency that sets rates and fees for public utilities as described in Northern Mariana Islands Public Law 4-47. These services shall be fully funded, including both current expenses and long-term debt, without government subsidy through such user rates and fees by the end of the third year after this agreement is effective.

(f) The Government of the Northern Mariana Islands shall ensure the continued administration of capital development funds by an automomous public agency of the Northern Mariana Islands, as described in Northern Mariana Islands Public Law 4-49. Such administration shall include the coordination and approval of all public financing of capital improvement projects and economic development activities.

(g) The Government of the Northern Mariana Islands shall obligate and expend those capital development funds to be devoted to capital improvement projects only according to definitions now contained in Northern Mariana Islands Public Law 4-46.

(h) The Government of the Northern Mariana Islands, within three months after this agreement becomes effective, shall initiate a study and an implementation plan that shall ensure an actuarially sound, locally funded pension system for the Government of the Northern Mariana Islands by the end of the seven years after this agreement becomes effective. Alternative strategies to bring the pension system into actuarial balance and alternative time periods necessary to accomplish this objective shall also be analyzed. The plan shall be fully implemented within the seven years referred to above unless otherwise mutually agreed by representatives of the Government of the United States and the Government of the Northern Mariana Islands based on long-term financial considerations and sound governmental management.

(i) The Government of the Northern Mariana Islands shall, within one year after this agreement becomes effective, develop a comprehensive plan for the transfer to the private sector of selected functions currently operated by the Government of the Northern Mariana Islands, and thereafter to the extent feasible, shall implement such transfers to the private sector.

5. Special Programs. The Government of the United States shall provide a one-time payment of $1 million for the Commonwealth Health Center operational start-up costs, and $500,000 for special technical assistance for developing a plan to fully fund the Government of the Northern Mariana Islands pension system. Should a portion of these pension study funds remain unexpended, the balance may be used for such technical assistance as the Government of the Northern Mariana Islands may determine.

PART III. CONGRESSIONAL OVERSIGHT AND REPORTING

1. Reporting. In addition to other reports and audits required by the Government of the United States, the Government of the

Northern Mariana Islands shall furnish to the Congress of the United States, as part of its annual budget justification, a report on the use of the funds made available under the schedule of payments contained in this agreement. Such annual reports shall outline the achievements to date under the categories of fund (including the status of efforts to provide for capital development through the use of revenue and general obligation bonds, like instruments of public debt, and other financing techniques) and the progress of efforts to transfer selected functions to the private sector.

2. Settlement of Disputes. Should the Government of the United States believe that understandings or the performance standards of this agreement are not being met, it shall notify the Government of the Northern Mariana Islands in writing, with the intent to resolve such issue in a mutually agreeable and expeditious manner. Should the issue not be resolved within thirty days after such notification is received, the Secretary of the Interior may propose deferral of Government of the Northern Mariana Islands operations funds pursuant to the Congressional Budget and Impoundment Control Act of 1974, (United States Public Law 93-344, 2 U.S.C. 681, *et seq.*).

PART IV. AMENDMENT OF THIS AGREEMENT

This agreement may be amended from time-to-time as mutually determined by the Secretary of the Interior, or his designee, and the Government of the Northern Mariana Islands, provided that the full faith and credit authorization and appropriation of the capital development funds, and the minimum shares guaranteed for Rota, Tinian and Saipan as provided in Part II, paragraph 3(c), shall not be subject to such amendment.

PART V. RECOMMENDED STATUTORY AMENDMENTS

In order to give effect to this agreement, the parties recommend that the Covenant (Public Law 94-241, 97 Stat. 1461) be amended as follows:

Be it Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 2 of Public Law 94-241 (97 Stat. 1461) is amended as follows—

In Section 703, Subsection (a), after the words "Section 702" add the words "and Section 705".

In Section 704, Subsections (a), (b) and (d), after the words "Section 702" add the words "and Section 705".

In Section 704, delete Subsection (c), and redesignate Subsection (d) as Subsection (c).

After Section 704 add a new Section 705, as follows:

> Section 705. Enactment of this section by the United States Congress and approval by the President shall constitute a commitment and pledge of the full faith and credit of the United States for the payment, as well as an authorization for the appropriation, of $228 million at guaranteed annual amounts of direct grant assistance to the Government of the Northern Mariana Islands for an additional period of seven fiscal years after the expiration of the ini-

tial seven-year period specified in Section 702, which assistance shall be provided according to the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands, executed July 10, 1985, between the special representative of the President of the United States and the special representatives of the Governor of the Northern Mariana Islands. The Islands of Rota and Tinian shall each receive no less than a ⅛ share and the island of Saipan shall receive no less than a ⅜ share of annualized capital improvement project funds, which shall be no less than 80 percent of the capital development funds identified in the Schedule of Payments in paragraph 2 of Part II of the Agreement of the Special Representatives.

In Section 1003, Subsection (b), delete "Article VII" and insert in lieu thereof "Section 701-704"; redesignate Subsection (c) as Subsection (d); and add a new Subsection (c) as follows:

(c) Section 705 will become effective on October 1, 1985.

Signed at Saipan, Northern Mariana Islands on the tenth day of July, 1985.

For the United States of America:

RICHARD T. MONTOYA,
Special Representative of the President of the United States.

For the Northern Mariana Islands:

PEDRO A. TENORIO,
Special Representative of the Governor of the Northern Mariana Islands.

BENJAMIN T. MANGLONA,
Special Representative of the Governor of the Northern Mariana Islands.

GREGORIO C. SABLAN,
Special Representative of the Governor of the Northern Mariana Islands.

IGNACIO K. QUICHOCHO,
Special Representative of the Governor of the Northern Mariana Islands.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the resolution, S.J. Res. 192, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

[Public Law 96-193, 96th Congress]

AN ACT To provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to assure continued safety in aviation, and for other purposes

94 STAT. 50

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TRADEOFF ALLOWANCE

SEC. 305. Notwithstanding any other provision of law or any rule, regulation, or order issued pursuant thereto, the tradeoff provisions contained in appendix C of part 36 of title 14 of the Code of Federal Regulations shall apply in determining whether any aircraft complies with the provisions of subpart E of part 91 of title 14 of the Code of Federal Regulations.

SEC. 306. (a) The Secretary shall provide an exemption from applicable noise standards to permit the operation of any noncomplying aircraft if the operator is flying such aircraft between Honolulu or other nations and points in the United States Pacific territories or the Trust Territory of the Pacific Islands (or successor political entities). No such noncomplying aircraft shall be allowed to operate at any other United States airports.

(b) Nighttime noise restrictions for aircraft operating pursuant to subsection (a) of this section shall be inapplicable in Honolulu, the United States Pacific territories and the Trust Territory of the Pacific Islands, (or successor political entities), provided that the State of Hawaii institutes nighttime noise restrictions for Honolulu International Airport, with equal application to all operators, that are no more restrictive than the existing restrictions.

TITLE IV

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PUBLIC LAWS—CH. 512—AUG. 1, 1950

AN ACT To provide a civil government for Guam, and for other purposes

[64 STAT. 384

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SEC. 29. (a) Subject to the laws of Guam, the Governor shall establish, maintain, and operate public-health services in Guam, including hospitals, dispensaries, and quarantine stations, at such places in Guam as may be necessary, and he shall promulgate quarantines and sanitary regulations for the protection of Guam against the importation and spread of disease.

(b) The Governor shall provide an adequate public educational system of Guam, and to that end shall establish, maintain, and operate public schools at such places in Guam as may be necessary. Aug. 1, 1950, c. 512, §29, 64 Stat. 392.

(c) the Government of Guam may establish an Office of Public Prosecutor and an Office of Public Auditor.

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PUBLIC LAW 414—JUNE 27,1952

AN ACT To revise the laws relating to immigration, naturalization, and nationality; and for other purposes

[66 STAT. 163]

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TITLE I—GENERAL

DEFINITIONS

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(C) an alien in immediate and continuous transit through the United States, or an alien who qualifies as a person entitled to pass in transit to and from the United Nations Headquarters District and foreign countries, under the provisions of Paragraphs (3), (4), and (5) of section 11 of the Headquarters Agreement with the United Nations (61 Stat. 758);

(D) *(i)* an alien crewman serving in good faith as such in any capacity required for normal operation and service on board a vessel (other than a fishing vessel having its home port or an operating base in the United States) or aircraft, who intends to land temporarily and solely in pursuit of his calling as a crewman and to depart from the United States with the vessel or aircraft on which he arrived or some other vessel or aircraft;

(ii) an alien crewman serving in good faith as such in any capacity required for normal operations and service aboard a fishing vessel having its home port or an operating base in the United States who intends to land temporarily in Guam and solely in pursuit of his calling as a crewman and depart from Guam with the vessel on which he arrived;

(E) an alien entitled to enter the United States under and in pursuance of the provisions of a treaty of commerce and navigation be-

tween the United States and the foreign state of which he is a national, and the spouse and children of any such alien if accompanying or following to join him: (i) solely to carry on substantial trade, principally between the United States and the foreign state of which he is a national; or (ii) solely to develop and direct the operations of an enterprise in which he has invested, or of an enterprise in which he is actively in the process of investing, a substantial amount of capital;

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TITLE II—IMMIGRATION

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[(l) The requirement of paragraph (26)(B) of subsection (a) of this section may be waived by the Attorney General, the Secretary of State, and the Secretary of the Interior, acting jointly, in the case of an alien applying for admission as a nonimmigrant visitor for business or pleasure and solely for entry into and stay on Guam for a period not to exceed fifteen days, if the Attorney General, the Secretary of State, and the Secretary of the Interior jointly determined that—

(1) Guam has developed an adequate arrival and departure control system, and

(2) such a waiver does not represent a threat to the welfare, safety, or security of the United States.]

(l)(1) The requirement of paragraph (26)(B) of subsection (a) of this section may be waived by the Attorney General, the Secretary of State, and the Secretary of the Interior, acting jointly, in the case of an alien applying for admission as a nonimmigrant visitor for business or pleasure and solely for entry into and stay on Guam for a period not to exceed fifteen days, if the Attorney General, the Secretary of State, and the Secretary of the Interior, after consultation with the Governor of Guam jointly determined that—

(A) an adequate arrival and departure control system has been developed on Guam, and that

(B) such a waiver does not represent a threat to the welfare, safety, or security of the United States, taking into account the conditions prevailing on, and the location of, Guam.

(2) An alien may not be provided a waiver under this subsection unless the alien has waived any right—

(A) to review or appeal under this Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into Guam, or

(B) to contest, other than on the basis of an application for asylum, any action for deportation against the alien.

(3) Any personnel employed by the Immigration and Naturalization Service in order to implement the provisions of this subsection shall not be counted for the purposes of personnel ceilings or other limitations on the number of employees in either the Immigration and Naturalization Service or the Department of Justice.

(4) Assignments of employees of the Territory of Guam to the Immigration and Naturalization Service under section 3374 of title 5, United States Code, shall not be subject to the time limitation provided for in section 3372(a) of title 5, United States Code.

(5) The Attorney General is authorized to accept from the territory of Guam reimbursement for the increased cost of administering the Immigration and Nationality Act resulting from this subsection.

(6) The Attorney General, after consultation with the Secretary of State, the Secretary of the Interior, and the Governor of Guam, shall issue regulations governing the admission of nonimmigrant aliens pursuant to the visa waiver authorized by this subsection.

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